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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,916	02/09/2005	Frode Roed	1935-00143	4479
26753	7590	05/02/2006	EXAMINER	
ANDRUS, SCEALES, STARKE & SAWALL, LLP 100 EAST WISCONSIN AVENUE, SUITE 1100 MILWAUKEE, WI 53202			WALK, SAMUEL J	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/509,916

Applicant(s)

ROED ET AL.

Examiner

Samuel J. Walk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2 and 4-5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding Claim 2, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

4. Claims 4-5 recite the limitation "the foot transceiver" in line 2 of each claim. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

5. Applicant is advised that should claims 3-5 be found allowable, claim 3 and thus 4-5 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content

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that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Avril (US 6979813).

Regarding Claims 1 and 3, Avril discloses a safety-shutoff device for a manually fed processing machine wherein claimed machine is met by alligator shear machine 10, see Col. 4 lns 18-33; claimed transceiver is met by transponder (unlabeled) in or on the glove or wristbands worn by a worker, see Col. 4 lns 42-67 and Col. 5 lns 1-4; claimed one or several transponder is met by sensor 28, which receives the transmitted signal from

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transponder, see Col. 4 lns 42-67 and Col. 5 lns 5-7; claimed main receiver/transmitter is met by controller 20, which receives the transmitted signal from sensor 28 and stops and/or reverses the operation of the hydraulic cylinder, see Col. 4 lns 34-41.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Avril in view of Ozaki (US 6239833).

Regarding Claim 2, Avril discloses a safety-shutoff for a machine. Avril does not disclose that an operator is shown positions of persons. However, Ozaki discloses a remote image monitoring methods and system wherein TV cameras 11, set-up at locations to be monitored, such as a factory or a building, transmit signals to monitor apparatus 2 and displays 22, see Col. 4 lns 54-65 and Col. 5 lns 1-27. Therefore, one having

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ordinary skill in the art at the time the invention was made would have incorporated the teachings of Ozaki into the system of Avril to confirm any possibility in danger. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the camera monitoring system would be performed at any number of locations that had the possibility of danger, such as airports, police stations, construction sites, mines, drilling rigs, etc.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Avril in view of Zeng (US 6897783).

Regarding Claim 4, Avril discloses a system for the safety shut-off of a machine when a transponder on or in a glove comes within a danger zone. Avril does not disclose placing the transponder within a shoe or around the ankle. However, one having ordinary skill in the art at the time the invention was made would have readily recognized that if the machine was a ground laden device that posed a potential threat to any other body part, including the foot, then the transmitter that was on or in the glove would then be on or in the shoe or boot of the machine operator. Yet, as additional support, Zeng teaches of an electrical injury protection system using radio frequency transmission wherein the transmitting device or the combined

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transmitting/receiving device is mounted on a belt, tool holster, helmet or shoe, see Col. 6 lns 38-40. Therefore, one having ordinary skill in the art at the time the invention was made would have incorporated the teachings Zeng into the system of Avril because protecting the most applicable body part provides greater safety.

11. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Avril in view of Moody (US 5115223).

Regarding Claims 5-6, Avril discloses a system for the safety shut-off of a machine when a transponder on or in a glove comes within a danger zone. Avril does not disclose placing the transponder within a shoe or around the ankle. However, one having ordinary skill in the art at the time the invention was made would have readily recognized that if the machine was a ground laden device that posed a potential threat to any other body part, including the foot, then the transmitter that was worn as a wristband would then be worn as an anklet of the machine operator. Yet, as additional support, Moody teaches of a personnel location monitoring system wherein location transmitter 55 is attached on an ankle of an individual, see Col. 3 lns 42-44. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was

made to incorporate the teachings of Moody in the system of Avril because placement around the ankle more convenience and less conspicuous.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wraight (US 5107705) disclose a video system with a wellbore. Cayrol (US 6621418) discloses a device warning against the presence of dangerous objects.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel J. Walk whose telephone number is (571) 272-2960. The examiner can normally be reached on M-F: 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJW



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